

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference AUG-21261 WO | FOR FURTHER ACTION | See Form PCT/IPEA/416 |
| International application No. PCT/DE2004/000332 | International filing date (day/month/year) 19.02.2004 | Priority date (day/month/year) 24.03.2003 |
| International Patent Classification (IPC) or national classification and IPC | | |
| Applicant MSA AUER GMBH | | |

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| 1. | This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. |
| 2. | This REPORT consists of a total of <u>4</u> sheets, including this cover sheet. |
| 3. | This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). |
| 4. | This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application |

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| Date of submission of the demand | Date of completion of this report |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/000332

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-7 _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. 1-7 _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* _____ received by this Authority on _____
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1/2-2/2 _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (specify): _____
 - ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (specify): _____
 - ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

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|-------------------------------|--------|-----|-----|
| Novelty (N) | Claims | 1-7 | YES |
| | Claims | | NO |
| Inventive step (IS) | Claims | 1-7 | YES |
| | Claims | | NO |
| Industrial applicability (IA) | Claims | 1-7 | YES |
| | Claims | | NO |

2. Citations and explanations (Rule 70.7)

Reference is made to the following documents:

D1: FR-A-2 707 141 (PERON JEAN YVES)
13 January 1995 (1995-01-13)

D2: FR-A-2 668 374 (GALLET SA)
30 April 1992 (1992-04-30)

D3: US-B-6 389 6061 (GALET ADRIEN ET AL)
21 May 2002 (2002-05-21)

D4: US-A-4 817 596 (GALLET ADRIEN)
4 April 1989 (1989-04-04).

Document D1 is considered to be the prior art closest to the subject matter of claim 1. Said document discloses (the references in parentheses are to D1):

a retaining device for a breathing mask (1) for attaching said mask to a protective helmet (2), with a securing hook (4) on each side of the breathing mask, which hooks can be hooked into hook-locating pockets on the outer side of the protective helmet and, in each case, are attached via a retaining strap (5, 7) of adjustable length.

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

The subject matter of claim 1 therefore differs from the known retaining device in that catch elements are configured on the retaining device in the region of the securing hook and act on the protective helmet in a frictional interlocking manner to retain the securing hook in the hooked position, and in that, offset relative to the catch elements, these projecting sliding elements are arranged for self-positioning of the securing hook in the hook-locating pocket when the retaining strap is tightened.

The subject matter of claim 1 is therefore novel (PCT Article 33(2)).

The problem solved by means of the additional features is that of providing a retaining device which is simple in design and easy to manipulate for securing a breathing mask to a protective helmet, said device being comfortable to wear and to put on, and ensuring secure breathing protection.

The solution to the above problem, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)):

the special design of the retaining device is not suggested in the closest prior art; even if the above problem were considered to be known, the remaining prior art contains nothing specific to indicate the claimed solution.

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Claims 2-7 are dependent on claim 1 and, therefore,
likewise satisfy the requirements of the PCT in respect
of novelty and inventive step.